



January 20, 2021

BY ECF

Honorable Barbara C. Moses  
United States Magistrate Judge  
United States District Court  
for the Southern District of New York  
Daniel Patrick Moynihan Courthouse  
500 Pearl Street, Room 740  
New York, NY 10007

RE: *Fung-Schwartz v. Cerner Corporation et al.*, 17 CIV 233  
Defendants' Request to Supplement Response to Plaintiffs'  
January 14, 2021 letter

Dear Judge Moses,

I write to request permission to supplement Defendants' response to Plaintiffs' letter motion filed January 14, 2021, particularly to provide the Court with additional information in response to Plaintiffs' request for additional documents concerning Defendants' reporting expert, Cerner Corporation associate Lisa Gallagher.

Upon further review of Plaintiffs' January 14 submission, Plaintiffs only submitted Ms. Gallagher's written report but omitted the attendant documents—including her CV and the exhibit to her written report—Defendants produced with her October 15, 2020 report. *See* communication from Buchanan to Shieldkret, attached (along with the attendant exhibits as Exhibit A.)

Additionally, because Plaintiffs have raised an issue concerning the date of Ms. Gallagher's first involvement (pre-litigation vs. post-litigation), Defendants have confirmed Ms. Gallagher did not become involved in the matter until 2017, well after Plaintiffs filed their initial October 13, 2016 lawsuit (the Court will recall Plaintiffs filed a new lawsuit in January 2017 without dismissing the first one). Ms. Gallagher could testify concerning her first involvement in her deposition (which Plaintiffs asked to extend beyond the discovery deadline and Defendants did not oppose). Nevertheless, if the Court requires a declaration by Ms. Gallagher confirming her first involvement with Dr. Fung-Schwartz, Defendants would happily provide one to the Court.

Finally, Defendants request clarification regarding the deadline for contention interrogatory responses. Local Rule 33.3(c) provides contention interrogatories should be completed at the conclusion of other discovery and should be served no later than 30 days prior to that date. The parties in this action served contention interrogatories to each other more than 30 days ago. Because Ms. Gallagher's deposition has been postponed and because her testimony supports Defendants' counterclaims, Defendants request clarification regarding their deadline to respond to Plaintiffs' contention interrogatories.

Respectfully,

A handwritten signature in black ink, appearing to read "Patrick N. Fanning". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

Patrick N. Fanning  
An Attorney for Defendants